

REMARKS/ARGUMENTS

This is a submission accompanying an RCE and serves as a further response to the Final Office Action dated January 25, 2006 and to the Advisory Action dated May 11, 2006. A Notice of Appeal was filed on April 25, 2006, thus, it is believed that the present amendment and the accompanying RCE are being filed in a timely manner.

Claims 1-10 were pending in the Final Office Action dated January 25, 2006. By the present Amendment claim 1 has been amended to clarify the features of the present application and claims 2, 9 and 10 have been canceled without prejudice or disclaimer. New claims 11 and 12 have been added.

Claims 1-4 and 6-8 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,202,093 to Cloyd. Claims 1-4 and 6-8 have also been rejected 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,433,330 to Yatsko et al. Reconsideration of this rejection is respectfully requested.

The Examiner contends that Cloyd discloses in figs. 1, 5 and 6, a stopper assembly comprising a capsule (13) having an external skirt (14) and an internal duct (27), a stopper (30) having a flexible member (28) becoming narrower at an end (30) and including two walls (32) forming a slot, wherein the stopper has a annular hollow part which fits onto the duct and terminates in an annular flange (29). The Examiner also points out that while the claims include the language “ for bottles equipped with a neck compatible with a water fountain,” this language does not impose any structural limitations to distinguish the claims over the stopper of Cloyd. Applicants respectfully disagree.

Amended claim 1 of the present application relates to a stopper device for bottles equipped with a neck compatible with a water fountain which are intended for containing

drinking water or another liquid, said stopper device being used during the storage and transport of the liquid and for cooperating with a feeding tube for the purpose of dispensing the liquid, said device being placed in a capsule which includes an external skirt to receive the neck of a bottle. The stopper device includes an internal duct to pass the feeding tube and to support a stopper, wherein the stopper is made from a flexible and elastic material and is formed of a single piece. The stopper includes a flexible part of a valve becoming narrower at an end and having closely set straight walls which form a slot, the closing and opening of which function as a valve such that when one wall is laid against the other, passage of the liquid contained in the bottle is prevented and wherein a closed position of the flexible part is assisted by hydrostatic pressure when the bottle is filled, and by mechanical means, such as reinforcements exerting a thrust on the walls, said thrust being oriented at 90° with respect to the slot.

Cloyd, as understood by Applicants, relates to a sealing cap with a one way valve for sealing containers containing samples, such as blood. In particular, Cloyd discloses a stopper with an opening biased in a closed position. The opening is adapted to receive a pipette for aspirating the samples of the liquid. Specifically, to remove a sample from the container, a handler inserts pipette 44, as illustrated in Figure 6, into cavity 27 where the end of the pipette is guided by the converging leaves 28 toward slit 30. The pipette is forced through the spaced biasing forces of the spring elements 34 and the end of the pipette slides through the slit. Upon completion of aspiration, the pipette is withdrawn and the lips seal tight again across the entire length of the slit. Thus, in Cloyd, the opening of the slit is due to pressure exerted by the pipette and the closing of the slit is due exclusively to the biasing force of the spring elements. Cloyd fails to make any mention whatsoever regarding hydrostatic pressure, much less disclosing that in a closed position, "the flexible part is assisted by hydrostatic pressure when the bottle is filled,"

as is required by claim 1 of the present application. Indeed, since the stopper of Cloyd is intended for use with bottles including samples which are withdrawn using pipettes, there is no need to invert the bottle and thus hydrostatic pressure does not aid the flexible part in the closed position.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, are patentable over Cloyd for at least the reasons described above.

Similarly, independent claim 6 relates to a stopper including "a flexible part that narrows at an end and with closely set straight walls forming a slot functioning as a valve, the opening and closing of which is actuated by virtue of the elasticity and flexibility of the material of the flexible part and by means of hydrostatic pressure exerted by the liquid filling the container." As noted above, Cloyd fails to disclose hydrostatic pressure at all, much less that the opening and closing of the slot formed by the straight walls of the flexible part is actuated by means of hydrostatic pressure exerted by the liquid filling the container.

Accordingly, it is respectfully submitted that claim 6, and the claims depending therefrom, are patentable over Cloyd for at least the reasons described above.

With regard to the rejection of claims 1-4 and 6-8 as allegedly anticipated by Yatsko et al., the Examiner contends that Yatsko et al. discloses a stopper assembly including a capsule (31) with an external skirt (19) and an internal duct (39) and a stopper (29) having a flexible member becoming narrower at an end (27) and including two walls (41) forming a slot. The Examiner, further contends that Yatsko et al. has an annular hollow part which fits into the duct and terminates in an annular flange 33. The Examiner also points out that while the claims include the language "for bottles equipped with a neck compatible with a water fountain," this

language does not impose any structural limitations to distinguish the claims over the stopper of Yatsko et al. Applicants respectfully disagree.

In Yatsko et al., a diaphragm 37 is provided in a disc portion 29 of a stopper that also includes a plug portion 27 extending below the disc portion. A syringe 21 is forced down through the diaphragm 37 into the channel 41 to a seated position as illustrated in Figure 6. In a preferred embodiment, cannula 23 of the syringe 21 is then retracted such that it is positioned as illustrated in Figure 6a to ensure complete access to the entire contents of the container.

Yatsko et al., however, fails to make any mention whatsoever regarding hydrostatic pressure, much less disclosing that in a closed position, "the flexible part is assisted by hydrostatic pressure when the bottle is filled," as is required by claim 1 of the present application. Similarly, Yatsko et al. fails to disclose a stopper including a slot "the opening and closing of which is actuated by virtue of the elasticity and flexibility of the material of the flexible part and by means of hydrostatic pressure exerted by the liquid filling the container, " as is required by claims 6 of the present application.

Further, the channel 41 in Yatsko et al. preferably has a finite measurable width and thus the walls of this channel do not provide closely set straight walls which form a slot that functions as a valve, as is required by each of the independent claims 1 and 6 of the present application. That is, the Yatsko et al. reference fails to disclose that the channel 41 acts as a valve and given that the channel 41 has a finite and measurable width, the channel would not close all the way to function as a valve.

Accordingly, it is respectfully submitted that independent claims 1 and 6 of the present application are patentable over the cited art for at least the reasons described above.

Applicants appreciate the Examiner's indication that claim 5 includes allowable subject matter and that it would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, as note above, it is believed that claim 1 is patentable over the cited art, and thus it is believed that claim 5 is patentable in its present form.

New independent claim 11 includes the subject matter of original claim 1 and the allowable subject matter of claim 5. Accordingly, it is respectfully submitted that claim 11, and new dependent claim 12, which depends therefrom, are patentable over the cited art and are in condition for allowance.

In light of the remarks and amendments made herein, it is respectfully submitted that claims 1, 3-8 and 11-12 are patentable over the cited art for at least the reasons discussed above and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

EXPRESS MAIL CERTIFICATE

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